

PATENT COOPERATION TREATY

From the INTERNATIONAL SEARCHING AUTHORITY

To:
M. BUD NELSON
8112 GREYWINDS DRIVE
RALEIGH, NC 27615

PCT

NOTIFICATION OF TRANSMITTAL OF THE INTERNATIONAL SEARCH REPORT AND THE WRITTEN OPINION OF THE INTERNATIONAL SEARCHING AUTHORITY, OR THE DECLARATION

(PCT Rule 44.1)

		Date of mailing (day/month/year)
Applicant's or agent's file reference SII-PCT04	FOR FURTHER ACTION See paragraphs 1 and 4 below	
International application No. PCT/US04/22330	International filing date (day/month/year) 13 July 2004 (13.07.2004)	
Applicant ARTHUR DJANG		

1. The applicant is hereby notified that the international search report and the written opinion of the International Authority have been established and are transmitted herewith.

Filing of amendments and statement under Article 19:

The applicant is entitled, if he so wishes, to amend the claims of the international application (see Rule 46):

When? The time limit for filing such amendments is normally two months from the date of transmittal of the international search report.

Where? Directly to the International Bureau of WIPO, 34 chemin des Colombettes
1211 Geneva 20, Switzerland, Facsimile No.: +41 22 740 14 35

For more detailed instructions, see the notes on the accompanying sheet.

2. The applicant is hereby notified that no international search report will be established and that the declaration under Article 17(2)(a) to that effect and the written opinion of the International Searching Authority are transmitted herewith.

3. With regard to the protest against payment of (an) additional fee(s) under Rule 40.2, the applicant is notified that:

- the protest together with the decision thereon has been transmitted to the International Bureau together with the applicant's request to forward the texts of both the protest and the decision thereon to the designated Offices.
- no decision has been made yet on the protest; the applicant will be notified as soon as a decision is made.

4. **Reminders**

Shortly after the expiration of 18 months from the priority date, the international application will be published by the International Bureau. If the applicant wishes to avoid or postpone publication, a notice of withdrawal of the international application, or of the priority claim, must reach the International Bureau as provided in Rules 90bis.1 and 90bis.3, respectively, before the completion of the technical preparations for international publication.

The applicant may submit comments on an informal basis on the written opinion of the International Searching Authority to the International Bureau. The International Bureau will send a copy of such comments to all designated Offices unless an international preliminary examination report has been or is to be established. These comments would also be made available to the public but not before the expiration of 30 months from the priority date.

Within 19 months from the priority date, but only in respect of some designated Offices, a demand for international preliminary examination must be filed if the applicant wishes to postpone the entry into the national phase until 30 months from the priority date (in some Offices even later); otherwise, the applicant must, within 20 months from the priority date, perform the prescribed acts for entry into the national phase before those designated Offices.

In respect of other designated Offices, the time limit of 30 months (or later) will apply even if no demand is filed within 19 months.

See the Annex to Form PCT/IB/301 and, for details about the applicable time limits, Office by Office, see the *PCT Applicant's Guide*, Volume II, National Chapters and the WIPO Internet site.

Name and mailing address of the ISA/ US Mail Stop PCT, Attn: ISA/US Commissioner for Patents P.O. Box 1450 Alexandria, Virginia 22313-1450 Facsimile No. (703) 305-3230	Authorized officer Bruce Campbell  Telephone No. 703-272-1600
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PATENT COOPERATION TREATY

From the INTERNATIONAL SEARCHING AUTHORITY

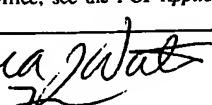
To:
M. BUD NELSON
8112 GREYWINDS DRIVE
RALEIGH, NC 27615

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**NOTIFICATION OF TRANSMITTAL OF
 THE INTERNATIONAL SEARCH REPORT AND
 THE WRITTEN OPINION OF THE INTERNATIONAL
 SEARCHING AUTHORITY, OR THE DECLARATION**

(PCT Rule 44.1)

		Date of mailing (day/month/year) 10 FEB 2005
Applicant's or agent's file reference SII-PCT04		FOR FURTHER ACTION See paragraphs 1 and 4 below
International application No. PCT/US04/22330		International filing date (day/month/year) 13 July 2004 (13.07.2004)
Applicant ARTHUR DJANG		

<p>1. <input type="checkbox"/> The applicant is hereby notified that the international search report and the written opinion of the International Searching Authority have been established and are transmitted herewith.</p> <p>Filing of amendments and statement under Article 19: The applicant is entitled, if he so wishes, to amend the claims of the international application (see Rule 46):</p> <p>When? The time limit for filing such amendments is normally two months from the date of transmittal of the international search report.</p> <p>Where? Directly to the International Bureau of WIPO, 34 chemin des Colombettes 1211 Geneva 20, Switzerland, Facsimile No.: +41 22 740 14 35</p> <p>For more detailed instructions, see the notes on the accompanying sheet.</p> <p>2. <input checked="" type="checkbox"/> The applicant is hereby notified that no international search report will be established and that the declaration under Article 17(2)(a) to that effect and the written opinion of the International Searching Authority are transmitted herewith.</p> <p>3. <input type="checkbox"/> With regard to the protest against payment of (an) additional fee(s) under Rule 40.2, the applicant is notified that:</p> <ul style="list-style-type: none"> <input type="checkbox"/> the protest together with the decision thereon has been transmitted to the International Bureau together with the applicant's request to forward the texts of both the protest and the decision thereon to the designated Offices. <input type="checkbox"/> no decision has been made yet on the protest; the applicant will be notified as soon as a decision is made. <p>4. Reminders</p> <p>Shortly after the expiration of 18 months from the priority date, the international application will be published by the International Bureau. If the applicant wishes to avoid or postpone publication, a notice of withdrawal of the international application, or of the priority claim, must reach the International Bureau as provided in Rules 90bis.1 and 90bis.3, respectively, before the completion of the technical preparations for international publication.</p> <p>The applicant may submit comments on an informal basis on the written opinion of the International Searching Authority to the International Bureau. The International Bureau will send a copy of such comments to all designated Offices unless an international preliminary examination report has been or is to be established. These comments would also be made available to the public but not before the expiration of 30 months from the priority date.</p> <p>Within 19 months from the priority date, but only in respect of some designated Offices, a demand for international preliminary examination must be filed if the applicant wishes to postpone the entry into the national phase until 30 months from the priority date (in some Offices even later); otherwise, the applicant must, within 20 months from the priority date, perform the prescribed acts for entry into the national phase before those designated Offices.</p> <p>In respect of other designated Offices, the time limit of 30 months (or later) will apply even if no demand is filed within 19 months.</p> <p>See the Annex to Form PCT/IB/301 and, for details about the applicable time limits, Office by Office, see the <i>PCT Applicant's Guide</i>, Volume II, National Chapters and the WIPO Internet site.</p>		
Name and mailing address of the ISA/ US Mail Stop PCT, Attn: ISA/US Commissioner for Patents P.O. Box 1450 Alexandria, Virginia 22313-1450 Facsimile No. (703) 305-3230		Authorized officer  Bruce Campbell Telephone No. 703-272-1600

(See notes on accompanying sheet)

PATENT COOPERATION TREATY

PCT

INTERNATIONAL SEARCH REPORT

(PCT Article 18 and Rules 43 and 44)

Applicant's or agent's file reference SII-PCT04	FOR FURTHER ACTION see Form PCT/ISA/220 as well as, where applicable, item 5 below.	
International application No. PCT/US04/22330	International filing date (day/month/year) 13 July 2004 (13.07.2004)	(Earliest) Priority Date (day/month/year) 17 July 2003 (17.07.2003)
Applicant ARTHUR DJANG		

This international search report has been prepared by this International Searching Authority and is transmitted to the applicant according to Article 18. A copy is being transmitted to the International Bureau.

This international search report consists of a total of 2 sheets.



It is also accompanied by a copy of each prior art document cited in this report.

1. Basis of the Report

a. With regard to the language, the international search was carried out on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.

The international search was carried out on the basis of a translation of the international application furnished to this Authority (Rule 23.1(b)).

b. With regard to any nucleotide and/or amino acid sequence disclosed in the international application, see Box No. I.

Certain claims were found unsearchable (See Box No. II)

3. Unity of invention is lacking (See Box No. III)

4. With regard to the title,

the text is approved as submitted by the applicant.

the text has been established by this Authority to read as follows:

5. With regard to the abstract,

the text is approved as submitted by the applicant.

the text has been established, according to Rule 38.2(b), by this Authority as it appears in Box No. IV. The applicant may, within one month from the date of mailing of this international search report, submit comments to this Authority.

6. With regard to the drawings,

a. the figure of the drawings to be published with the abstract is Figure No. _____

as suggested by the applicant.

as selected by this Authority, because the applicant failed to suggest a figure.

as selected by this Authority, because this figure better characterizes the invention.

b. none of the figures is to be published with the abstract.

INTERNATIONAL SEARCH REPORT

International application No.

PCT/US04/22330

A. CLASSIFICATION OF SUBJECT MATTER

IPC(7) : A01N 65/00; A61K 35/78
 US CL : 424/728, 729, 765, 769, 773

According to International Patent Classification (IPC) or to both national classification and IPC

B. FIELDS SEARCHED

Minimum documentation searched (classification system followed by classification symbols)
 U.S. : 424/728, 729, 765, 769, 773

Documentation searched other than minimum documentation to the extent that such documents are included in the fields searched

Electronic data base consulted during the international search (name of data base and, where practicable, search terms used)
 STN, EAST

C. DOCUMENTS CONSIDERED TO BE RELEVANT

Category *	Citation of document, with indication, where appropriate, of the relevant passages	Relevant to claim No.
Y	US 6,551,627 B1 (YOON et al) 22 April 2003 (22.04.2003), column 4, lines 7, 45, column 6, lines 66-67, column 7, lines 1-4.	1-19
Y	US 5,900,240 (TOMER et al) 4 May 1999 (04.05.1999), abstract.	1-19
Y	US 5,910,308 (D'JANG) 8 June 1999 (08.06.1999), column 3, lines 30-41, 58, column 4, lines 18-20, 26-27, claims 1-3, 9, 12, 15.	1-19

Further documents are listed in the continuation of Box C.

See patent family annex.

* Special categories of cited documents:	
"A" document defining the general state of the art which is not considered to be of particular relevance	"T" later document published after the international filing date or priority date and not in conflict with the application but cited to understand the principle or theory underlying the invention
"E" earlier application or patent published on or after the international filing date	"X" document of particular relevance; the claimed invention cannot be considered novel or cannot be considered to involve an inventive step when the document is taken alone
"L" document which may throw doubts on priority claim(s) or which is cited to establish the publication date of another citation or other special reason (as specified)	"Y" document of particular relevance; the claimed invention cannot be considered to involve an inventive step when the document is combined with one or more other such documents, such combination being obvious to a person skilled in the art
"O" document referring to an oral disclosure, use, exhibition or other means	"&" document member of the same patent family
"P" document published prior to the international filing date but later than the priority date claimed	

Date of the actual completion of the international search

19 November 2004 (19.11.2004)

Date of mailing of the international search report

10 FEB 2005

Name and mailing address of the ISA/US

Mail Stop PCT, Attn: ISA/US
 Commissioner for Patents
 P.O. Box 1450
 Alexandria, Virginia 22313-1450

Facsimile No. (703) 305-3230

Authorized officer

Bruce Campbell

Telephone No. 571-272-1600

PATENT COOPERATION TREATY

From the
INTERNATIONAL SEARCHING AUTHORITY

To:
M. BUD NELSON
8112 GREYWINDS DRIVE
RALEIGH, NC 27615

PCT

**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY**

(PCT Rule 43bis.1)

		Date of mailing (day/month/year)	10 FEB 2005
Applicant's or agent's file reference SII-PCT04		FOR FURTHER ACTION See paragraph 2 below	
International application No.	International filing date (day/month/year)	Priority date (day/month/year)	
PCT/US04/22330	13 July 2004 (13.07.2004)	17 July 2003 (17.07.2003)	
International Patent Classification (IPC) or both national classification and IPC IPC(7): A01N 65/00; A61K 35/78 and US Cl.: 424/728, 729, 765, 769, 773			
Applicant ARTHUR DJANG			

1. This opinion contains indications relating to the following items:

<input checked="" type="checkbox"/>	Box No. I	Basis of the opinion
<input type="checkbox"/>	Box No. II	Priority
<input type="checkbox"/>	Box No. III	Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
<input checked="" type="checkbox"/>	Box No. IV	Lack of unity of invention
<input checked="" type="checkbox"/>	Box No. V	Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
<input type="checkbox"/>	Box No. VI	Certain documents cited
<input type="checkbox"/>	Box No. VII	Certain defects in the international application
<input type="checkbox"/>	Box No. VIII	Certain observations on the international application

2. **FURTHER ACTION**

If a demand for international preliminary examination is made, this opinion will be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA") except that this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of 3 months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

Name and mailing address of the ISA/ US Mail Stop PCT, Attn: ISA/US Commissioner for Patents P.O. Box 1450 Alexandria, Virginia 22313-1450 Facsimile No. (703) 305-3230	Authorized officer Bruce Campell Telephone No. 571-272-1600
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Form PCT/ISA/237 (cover sheet) (January 2004)

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

International application No.

PCT/US04/22330

Box No. I Basis of this opinion

1. With regard to the language, this opinion has been established on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.

This opinion has been established on the basis of a translation from the original language into the following language ____, which is the language of a translation furnished for the purposes of international search (under Rules 12.3 and 23.1(b)).

2. With regard to any nucleotide and/or amino acid sequence disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:

a. type of material

a sequence listing

table(s) related to the sequence listing

b. format of material

in written format

in computer readable form

c. time of filing/furnishing

contained in international application as filed.

filed together with the international application in computer readable form.

furnished subsequently to this Authority for the purposes of search.

3. In addition, in the case that more than one version or copy of a sequence listing and/or table relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.

4. Additional comments:

NOTES TO FORM PCT/ISA/220 (continued)

The letter must indicate the differences between the claims as filed and the claims as amended. It must, in particular, indicate, in connection with each claim appearing in the international application (it being understood that identical indications concerning several claims may be grouped), whether

- (i) the claim is unchanged;
- (ii) the claim is cancelled;
- (iii) the claim is new;
- (iv) the claim replaces one or more claims as filed;
- (v) the claim is the result of the division of a claim as filed.

The following examples illustrate the manner in which amendments must be explained in the accompanying letter:

1. [Where originally there were 48 claims and after amendment of some claims there are 51]:
"Claims 1 to 29, 31, 32, 34, 35, 37 to 48 replaced by amended claims bearing the same numbers; claims 30, 33 and 36 unchanged; new claims 49 to 51 added."
2. [Where originally there were 15 claims and after amendment of all claims there are 11]:
"Claims 1 to 15 replaced by amended claims 1 to 11."
3. [Where originally there were 14 claims and the amendments consist in cancelling some claims and in adding new claims]:
"Claims 1 to 6 and 14 unchanged; claims 7 to 13 cancelled; new claims 15, 16 and 17 added." or
"Claims 7 to 13 cancelled; new claims 15, 16 and 17 added; all other claims unchanged."
4. [Where various kinds of amendments are made]:
"Claims 1-10 unchanged; claims 11 to 13, 18 and 19 cancelled; claims 14, 15 and 16 replaced by amended claim 14; claim 17 subdivided into amended claims 15, 16 and 17; new claims 20 and 21 added."

"Statement under Article 19(1)" (Rule 46.4)

The amendments may be accompanied by a statement explaining the amendments and indicating any impact that such amendments might have on the description and the drawings (which cannot be amended under Article 19(1)).

The statement will be published with the international application and the amended claims.

It must be in the language in which the international application is to be published.

It must be brief, not exceeding 500 words if in English or if translated into English.

It should not be confused with and does not replace the letter indicating the differences between the claims as filed and as amended. It must be filed on a separate sheet and must be identified as such by a heading, preferably by using the words "Statement under Article 19(1)."

It may not contain any disparaging comments on the international search report or the relevance of citations contained in that report. Reference to citations, relevant to a given claim, contained in the international search report may be made only in connection with an amendment of that claim.

Consequence if a demand for international preliminary examination has already been filed

If, at the time of filing any amendments and any accompanying statement, under Article 19, a demand for international preliminary examination has already been submitted, the applicant must preferably, at the time of filing the amendments (and any statement) with the International Bureau, also file with the International Preliminary Examining Authority a copy of such amendments (and of any statement) and, where required, a translation of such amendments for the procedure before that Authority (see Rules 55.3(a) and 62.2, first sentence). For further information, see the Notes to the demand form (PCT/IPEA/401).

Consequence with regard to translation of the international application for entry into the national phase

The applicant's attention is drawn to the fact that, upon entry into the national phase, a translation of the claims as amended under Article 19 may have to be furnished to the designated/elected Offices, instead of, or in addition to, the translation of the claims as filed.

For further details on the requirements of each designated/elected Office, see the *PCT Applicant's Guide*, Volume II.

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

International application No.

PCT/US04/22330

Box No. IV Lack of unity of invention

1. In response to the invitation (Form PCT/ISA/206) to pay additional fees the applicant has:
 paid additional fees
 paid additional fees under protest
 not paid additional fees
2. This Authority found that the requirement of unity of invention is not complied with and chose not to invite the applicant to pay additional fees.
3. This Authority considers that the requirement of unity of invention in accordance with Rule 13.1, 13.2 and 13.3 is
 complied with
 not complied with for the following reasons:
See the lack of unity section of the International Search Report (Form PCT/ISA/210)
4. Consequently, this opinion has been established in respect of the following parts of the international application:
 all parts.
 the parts relating to claims Nos. _____

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

International application No.
PCT/US04/22330

Box No. V Reasoned statement under Rule 43 bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Claims <u>1-19</u> <input type="checkbox"/> YES
	Claims <u>NONE</u> <input type="checkbox"/> NO
Inventive step (IS)	Claims <u>NONE</u> <input type="checkbox"/> YES
	Claims <u>1-19</u> <input type="checkbox"/> NO
Industrial applicability (IA)	Claims <u>1-19</u> <input type="checkbox"/> YES
	Claims <u>NONE</u> <input type="checkbox"/> NO

2. Citations and explanations:

Claims 1-19 lack an inventive step under PCT Article 33(3) as being obvious over DJang in view of Tomer et al. in view of Tomer *et al* and in further in view of Yoon *et al*.

Djang discloses the use of *Gynostemma pentaphyllum*, *Camellia sinesis* and *Crataegus pinnatifida* in a composition that formed into a powder extract to be used in a tea, liquid extract, beverage, gum, lotion, tablet or lozenge and aids in reducing the onset of diabetes (column 3, lines 30-41, 58 and column 4, lines 18-20, 26-27 and claims 1-3, 9, 12, 15).

Tomer et al. disclose using *Momordica charantia* in a herbal mixture for lowering the glucose level in blood in persons suffering from diabetes mellitus (abstract).

Yoon *et al.* disclose using the species *Morus* in a composition to prevent and treat clinical diabetes (column 4, lines 7, 45 and column 6, lines 66-67, column 7, lines 1-4).

One would have been motivated to combine the ingredients in order to create one composition with the additive effect of health benefits.

Although only the DJang reference taught the claimed ranges of the individual component amounts, the components were well known in the art. One of ordinary skill in the art would have been motivated to have modified the proportions of active ingredients in the composition in order to enable the content of the preparation to be matched with the demands and needs of individuals which needed treatment. Such variations in amounts of pharmaceutically active ingredients are considered merely optimization of result variables, conventional practice in the art of herbal compositions.

Claims 1-19 meet the criteria set out in PCT Article 33(2), because the prior art does not teach or use *Momordica charantia* or *Morus*.

Claims 1-19 meet the criteria set out in PCT Article 33(4), and thus lacks industrial applicability because the subject matter claimed can be made or used in industry.

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